

Board of Adjustment

Minutes

City Council Chambers, Lower Level May 13, 2014

Board Members Present:

Trent Montague – Chair
Mark Freeman
Shelly Allen
Tyler Stradling
Greg Hitchens
Wade Swanson

Board Members Absent:

Chad Cluff (unexcused)

Staff Present:

Gordon Sheffield
Angelica Guevara
Tom Ellsworth
Kim Steadman
Lisa Davis
Kaelee Wilson
Mike Gildenstern

Others Present:

Barbara Oberhoffer
Jim Oberhoffer
Robert Tomasik
Justen Cassidy
Scott Hudson
Scott Karsubik

The study session began at 4:34 p.m. The Public Hearing meeting began at 6:00 p.m. Before adjournment at 7:07 p.m., the following items were considered and recorded.

Study Session began at 4:34 p.m.

- A. Zoning Administrator's Report
 - 1. Discuss the proposal to move the Board of Adjustment meeting from the second Tuesday to the First Wednesday of each month, effective August 14, 2014.
 - 2. Discuss an amendment to change tattoo parlor regulation from requiring a Council Use Permit to being allowed by right within in any commercial or industrial district.
 - 3. Discuss a proposal to create an exception for transit stop signs providing that advertisement revenue would go directly to transit instead of the general fund.
- B. The items scheduled for the Board's Public Hearing were discussed.

Study Session adjourned at 5:51 p.m.**Public Hearing began at 6:00 p.m.**

- A. Consider Minutes from the April 8, 2014 Meeting a motion was made by Boardmember Stradling and seconded by Boardmember Freeman to approve the minutes. Vote: Passed 6-0 (Absent – Boardmember Cluff)

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- B. Consider Proposed Revisions to the By-laws of the Board of Adjustment a motion was made by Boardmember Stradling and seconded by Boardmember Freeman to continue the consideration of proposed revisions to the By-laws until the June 10, 2014 meeting. Vote: Passed 6-0 (Absent-Boardmember Cluff)

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Case No.: BA14-011

Location: 1429 East Flossmoor Avenue

Subject: Requesting a Variance to allow an encroachment into the required side yard in the RS-6 zoning district. (PLN2014-00043) (Continued from the April 8, 2014 hearing)

Decision: Continuance to the June 10, 2014 hearing

Summary: This item was on the consent agenda and was not discussed on an individual basis.

Motion: It was moved by Boardmember Allen seconded by Boardmember Swanson to continue case BA14-011 to the June 10, 2014 hearing

Vote: Vote (6-0) (Absent – Boardmember Cluff)

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Case No.: BA14-013

Location: 1614 North Mesa Drive

Subject: Requesting a Special Use Permit and a Development Incentive Permit to allow the development of an Assisted Living Facility in the OC zoning district. (PLN2014-00056).

Decision: Reconsideration to the June 10, 2014 hearing

Summary: The Boardmembers debated whether to reconsider Case BA14-013 with Boardmember Allen citing that an Assisted Living Facility was more compatible with surrounding residential uses than other commercial uses.

Boardmember Swanson stated that he was not present at the May meeting but he is supportive of the project.

Chairperson Montague proposed that the case be reconsidered because the applicant took the necessary steps for reconsideration.

Boardmember Freeman was in opposition to the project citing heavy traffic, reduced visibility because of the position of the site at the base of the slope, and the danger that may be placed on first responders. He also had issues with the compatibility of the site, stating that a 32 bed facility is not comparable with any similar uses around it.

Boardmember Hitchens restated that he was against the project merely because of the location of the use, not the use itself.

Boardmember Stradling was concerned that a reconsideration may set an undesirable precedent going forward that dictates if a denial is made, then the case is entitled to be reconsidered.

Zoning Administrator Sheffield explained to the Board that the property is currently vested OC zoning which provides for things like offices, professional services, beauty salons, barber shops, etc. He went on to say that an assisted living facility is a good relative buffer adjacent to a residential zone because it is a quiet use. He also mentioned that if denied, the applicant may need to seek another permitted use for this zoning district.

Motion: It was moved by Boardmember Allen seconded by Boardmember Stradling to reconsider Case BA14-013 on the June 10, 2014 hearing

Vote: Vote (4-2) (Nay- Boardmembers Freeman and Hitchens) (Absent – Boardmember Cluff)

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Case No.: BA14-016

Location: 909 West Main Street

Subject: Requesting Development Incentive Permit (DIP) to allow reductions to perimeter building setback and landscaping requirements; in conjunction with development of a mini-storage warehouse facility in the GC zoning district. (PLN2014-00066)

Decision: Withdrawn

Summary: This item was on the consent agenda and was not discussed on an individual basis.

Motion: It was moved by Boardmember Allen seconded by Boardmember Swanson to withdraw Case BA14-016

Vote: Vote (6-0) (Absent – Boardmember Cluff)

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Case No.: BA14-020

Location: 1130 West Southern Avenue

Subject: Requesting to modify an existing Special Use Permit for a Comprehensive Sign Plan to allow revisions to the maximum aggregate attached signage authorized for each tenant space, and authorize additional detached signage for a group commercial center in the LC zoning district. (PLN2014-00131).

Decision: Approval with Conditions

Summary: This item was on the consent agenda and was not discussed on an individual basis.

Motion: It was moved by Boardmember Allen seconded by Boardmember Swanson to approve Case BA14-020 with the following conditions:

1. *Compliance with the sign plan submitted, except as modified by the conditions listed below.*
2. *No detached sign shall have a sign height greater than twelve feet (12') or sign area greater than eighty (80) square feet.*
3. *The Restaurant Tenant and End Cap Building A, shall be permitted a total of four (4) attached signs with a maximum attached sign area of 160 square-feet.*
4. *The Anchor In-line Tenants that exceed 20,000 square-feet in floor area shall be permitted a total of four (4) attached signs with a maximum attached sign area of 220 square-feet.*
5. *Parcel 2 and In-line Tenants with less than 20,000 square-feet, shall be allowed no more than three (3) attached sign with an aggregate sign area equivalent to current Code maximums.*
6. *Any signage that is not in conformance with Chapter 41 (Sign Regulations) of the Zoning Ordinance that exist on the property must be removed.*
7. *Compliance with all requirements of the Building Safety Division with regard to the issuance of sign permits.*

FINDINGS:

1. The Zoning Code would potentially allow an aggregate total of 61 feet in height and 610 square feet in sign area for detached signs along East Southern Avenue, an aggregate total of 30.2 feet in height and 302 square feet in sign area for detached signs along South Alma School Road, and an aggregate total of 30.2 feet in height and 302 square feet in sign area for detached signs along South Westwood.
2. The approved Comprehensive Sign Plan allows an aggregate total of 36 feet in height and 240 square feet in sign area between three detached signs along Southern Avenue and 24 feet in height and 160 square feet in sign area between two detached signs along South Alma School Road with one additional center identification sign at the intersection corner, which is 4-foot, 6-inches high and 31 square-feet in sign area. No detached signs have been proposed along South Westwood. No detached sign would exceed 12 feet in height or 80 square feet in sign area.
3. The CSP allows four attached signs with an aggregate sign area of 220 square-feet for the Anchor In-line Tenant that exceeds 20,000 square-feet in floor area. The CSP also allows an increase in square footage for the 6,000 + s.f. Restaurant Tenant at 220 square-feet of sign area and the End Cap Building A building at 200 square-feet of sign area with 4 attached signs allowed for each. Current Code would

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allow a maximum of three attached signs with an aggregate sign area of 160 square feet for each tenant.

4. The Anchor In-line Tenant spaces have large tower features with a large area for signage. Those buildings are a significant distance from Southern Avenue, making visibility of signage more difficult. The approved signage is consistent with the scale and architecture of the building.
5. The spaces identified in the CSP as the Restaurant Tenant and the End Cap Building A, are both located very close to the major arterial streets, which provides very good visibility for their signage. A condition of approval would limit the Restaurant Tenant (6,000 + square-foot) and End Cap Building A to four attached signs with an aggregate sign area of 160 square feet.
6. The building identified as Parcel 2 is a multi-tenant building. The approved signage is consistent with the Zoning Ordinance Standards.
7. The tenant spaces that are described as In-line Shops, which are less than 20,000 square feet in area will comply with Zoning Ordinance Standards.
8. As approved, the aggregate attached sign area for the Anchor In-line Tenant spaces would be decreased from the CSP proposal. The aggregate sign area for both tenants would still exceed current Code maximums. The approved CSP, including recommended conditions of approval, has been justified by the scale of the buildings, and aggregate sign area and height for detached signs less than could be allowed by Code. The CSP provides a flexible sign criteria that promotes improved design through architectural integration.

Vote: Vote (6-0) (Absent – Boardmember Cluff)

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Case No.: BA14-024

Location: 1335 South Alma School Road

Subject: Requesting a Substantial Conformance Improvement Permit (SCIP) to allow: 1) buildings to encroach into the required side yard; and 2) modification of the landscape parking island requirements; both in conjunction with the redevelopment of a pad site for a group commercial center in the LC zoning district. (PLN2014-00121)

Decision: Approval with Conditions

Summary: This item was on the consent agenda and was not discussed on an individual basis

Motion: It was moved by Boardmember Allen seconded by Boardmember Swanson to approve case BA14-024 with the following conditions:

1. *Compliance with the project narrative, revised site plan, landscape plan and elevations submitted except as modified by the following conditions.*
 2. *Compliance with all requirements of Design Review (DR14-012).*
 3. *Compliance with all City development codes and regulations.*
 4. *Compliance with the Fiesta District Design Handbook for Private Realm Design Guidelines (site design, architectural design, landscape palette, site furniture, fixtures, and connectivity).*
 5. *Provide a permanent shade structure architecturally integrated with the building over the proposed outdoor seating area along with site furniture compatible with the Fiesta District Design Handbook for Private Realm Design Guidelines.*
 6. *Signage (detached and attached) need separate approval and permit for locations, size, and quantity.*
 7. *Compliance with all requirements of Development Services in the issuance of building permits.*
 8. *Provide diamond shape landscape areas in the parking field to achieve at least one every four spaces.*
 9. *Submit a revised site plan for staff approval prior to final submittal for Design Review (DR14-012) to address streetscape, patio and landscape design and architecture along Alma School Road.*
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1. The proposed redevelopment of the site invokes conformance with current development standards.
 2. At the time of initial development in 1994, the setbacks, foundation base, and landscape requirements of the Zoning Code varied or were non-existent when compared to the development standards of the current Code.
 3. The approved project provides 74 parking spaces on-site where 79 are required. The reduced parking should not affect the lot as the center was over parked by 30% when it was originally developed.
 4. Requiring full compliance with the current code would not allow the redevelopment of the site to occur.
 5. The deviations requested are consistent with the degree of change requested and improve the site significantly making it an asset to the Fiesta District.
 6. The approved improvements with the recommended conditions of approval help bring the site into a closer degree of conformance with current standards.
 7. The approve use will not be detrimental to surrounding properties.

Vote: Vote (6-0) (Absent – Boardmember Cluff)

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- Case No.:** BA14-027
- Location:** 824 West Broadway Road
- Subject:** Requesting Development Incentive Permit (DIP) to allow the development of a Contractor's Yard for outdoor storage of building and other materials in the LI zoning district. (PLN2014-00011)
- Decision:** Approval with conditions
- Summary:** This item was on the consent agenda and was not discussed on an individual basis
- Motion:** It was moved by Boardmember Allen seconded by Boardmember Swanson to approve case BA14-027 with the following conditions:
1. *Compliance with the plans submitted, except as modified by the conditions below.*
 2. *Compliance with all requirements of Z14-019 and DR14-016.*
 3. *Compliance with all requirements of the Development Services Division with regard to the issuance of building permits.*

FINDINGS:

1. The applicant requested a Development Incentive Permit (DIP) from the Board of Adjustment for modifications to perimeter building and landscape setbacks, required foundation base width around the buildings and the requirement for irregular-shaped retention basins.
2. The site is located on the northwest corner of Extension Rd. and Broadway Rd. American Metals Recycling has been in the business of recycling scrap metals in its location across Extension Rd. for over 35 years. It is now expanding its operation by developing this by-passed site as an ancillary site for operations related to American Metals.
3. The subject site is undeveloped land. American Metals proposes development in two phases, first as a screened contractor's yard for outdoor storage of building materials, then, adding a 15,000 square-foot warehouse in the second phase, for indoor storage as well. The current Light-Industrial (LI) zoning on the site allows both of these uses.
4. This site will also serve as an extension of the American Metals recycling facility located directly to the east across Extension Rd. The applicant is seeking a Council Use Permit (CUP) in order to store containers of recyclable materials on this site, awaiting processing in the main facility.
5. The site qualifies for a DIP as it meets all three of the following conditions: 1) the site does not exceed 5 net acres and has been in its current configuration for more than 10 years; 2) the site has access to existing utilities; and 3) less than 25% of surrounding properties, within a 1,200 foot radius, are undeveloped, with development dating to more than 15 years ago.
6. The applicant also proposed new landscaping around the street frontages, which will be installed in front of the proposed 10-foot wall, which will be constructed out of recycled box car doors. Additional landscaping is being provided in the interior public parking areas.
7. There is an existing 40-foot right-of-way on Broadway Road, and a 65-foot future width line. The applicant has proposed to place the building and perimeter wall 10-feet from the future width line along Broadway.
8. There is an existing 40-foot right-of-way along Extension Road and a 55' future width line. The applicant proposes setbacks, from the existing right-of way, of 15-feet to the perimeter wall and 30-

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feet to the building.

9. Given the design of the site plan, the provision of landscape throughout the site, and other proposed improvements, staff is supportive of the requested modifications to the standards. The proposed improvements reflect the greatest possible degree of compliance with the zoning code. Due to the overall design associated with this request the deviations are supported by staff.
10. In addition to the qualifying criteria for the DIP, the approved development for the site is consistent with the General Plan. Approval of a Council Use Permit for a recycling use in the LI district is scheduled for action by the City Council on May 5, 2014 (Z14-019). Further, the applicant has provided a degree of compliance with Code that is commensurate with or exceeds surrounding existing development. The approved deviations are necessary to accommodate the proposed development. This approved development will also be reviewed by the Design Review Board on May 7th (DR14-016).

Vote: Vote (5-0-1) (Absent – Boardmember Cluff) (Boardmember Hitchens- Abstained)

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Case No.: BA14-028

Location: 163 North Dobson Road

Subject: Requesting a Special Use Permit (SUP) to allow an electronic message display to change more frequently than a rate of once every hour in the LC zoning district. (PLN2014-00138)

Decision: Approval with Conditions

Summary: This item was on the consent agenda and was not discussed on an individual basis

Motion: It was moved by Boardmember Allen seconded by Boardmember Swanson to approve case BA14-028 with the following conditions:

1. *Compliance with the sign plan submitted, except as modified by the conditions listed below.*
2. *Compliance with all requirements of the Development Services Division in the issuance of sign permits.*
3. *Compliance with all stipulations of approval for the overall comprehensive sign Plan of the center, BA00-34.*
4. *Compliance with conditions of approval for the Administrative review, dated February 11, 2014 for the modification to the Comprehensive Sign Plan for design, size and placement of the monument sign for 163 N. Dobson.*
5. *Each message shall remain static for a minimum of fifteen (15) seconds.*
6. *The transitions between messages and the light intensity level of the electronic message display shall comply with the requirements of Section 11-19-8(D)17.*

FINDINGS:

1. The current Sign Ordinance requires electronic message displays to remain static for a minimum of one hour unless a Special Use Permit (SUP) is granted. Such SUP may be granted if the proposed sign is found to be compatible with and not detrimental to surrounding properties through the consideration of the following factors: 1) the speed and volume of the vehicular traffic visually exposed to the sign, 2) the presence of other signs or distracting influences in proximity to the sign location, and 3) the extent to which the design of the sign is compatible with other signs located on the premises.
2. A 15 second message display is consistent with past Board of Adjustment decisions, which have allowed message changes every 15 seconds. The basis for these decisions has been the idea of having one message visible for approximately a quarter mile as a vehicle approaches the sign. A static message for 15 seconds ensures the message is static long enough for the driver to read whatever it says quickly, in a single display, and then divert their attention back to the roadway. It also avoids distracting drivers by creating the appearance of signs being in motion.
3. The approved monument sign is approximately 780' north of the existing monument sign utilized for the Safeway commercial center. The proposed monument sign is approximately 330' from the future office building monument sign placement, noted as B-1 on the site plan.
4. The Monument sign design, size and height are all consistent with the Comprehensive Sign Plan, BA00-34, and approved modifications for the existing Tri-City Pavilions Center.

Vote: Vote (6-0) (Absent – Boardmember Cluff)

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Case No.: BA14-029

Location: 531 N. Robson

Subject: Requesting a Special Use Permit (SUP) to allow an electronic message display to change more frequently than a rate of once every hour in the LC zoning district. (PLN2014-00138)

Decision: Approval with conditions

Summary: This item was on the consent agenda and was not discussed on an individual basis

Motion: It was moved by Boardmember Allen seconded by Boardmember Swanson to approve case BA14-029 with the following conditions:

1. *Compliance with the site plan, narrative and exhibits submitted.*
2. *Maintenance of the historical integrity of the home to be confirmed with an approval of a Certificate of Appropriateness from the Historic Preservation Officer for the City of Mesa.*
3. *Compliance with all requirements of the Development Services Division in the issuance of building permits.*

FINDINGS:

1. The applicant is proposing to construct an attached two-car carport (21' x 26') in front of the front line their existing home. The original one-car carport was enclosed sometime in the 1960's or 1970's under prior ownership. The proposed carport would be 17-feet in front of a proposed porch addition.
2. This property is zoned RS-6HP and is located within the Evergreen Historic District. The deviation that is being requested is a new ordinance requirement that was not in place in 1949 when the home was constructed. Current code requires that where garage doors/ carports are oriented parallel or within 10 degrees of parallel to the front property line of the lot, they shall be located at least 3-feet behind the primary wall facing the street, and never less than the required garage setback. The applicant has proposed a design where the garage is closer to the street than the livable area but meets the minimum setback for a garage/carport of 20- feet.
3. The applicant has included photographs of other homes in the neighborhood that have carports or garages that protrude out from the front line of the home. Granting of this variance request would not grant a special privilege to this applicant over other neighbors.
4. The applicant has noted the following as justification for the variance request: 1) the carport cannot be added in the side yards due to setback restrictions; 2) granting this variance would only give the same rights to the applicant as others enjoy in the neighborhood; 3) the carport addition will increase the value of the property;
5. The property is not a contributing property to the Evergreen Historic District. The applicant still must obtain a Certificate of Appropriateness for the addition of both the carport and porch to ensure it is not uncharacteristic to the historic nature of the neighborhood. Since the porch and carport will be consistent with the craftsman style demonstrated throughout the Evergreen neighborhood, any concerns about the structure affecting the historic integrity of the property or neighborhood are minimal.
6. This request is supported because of the existing character and development patterns in the Evergreen Historic District. The intent of the provision of the code that requires the carport/ garages to be recessed 3-foot from the home is to mitigate the visual impact of garages and bring the livable spaces

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closer to the street. The way in which the applicant is proposing to construct the carport and porch by adding Craftsman architectural detailing meets the intent of the provision.

Vote: Vote (5-0) (Absent – Boardmember Cluff)

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- Case No.:** BA14-030
- Location:** 807 North Stapley Drive
- Subject:** Requesting a Variance to allow a sign to encroach into the future right-of-way line in the RS-9 zoning district. (PLN2014-00180)
- Decision:** Approval with conditions
- Summary:** This item was on the consent agenda and was not discussed on an individual basis.
- Motion:** It was moved by Boardmember Allen seconded by Boardmember Swanson to approve case BA14-030 with the following conditions:
1. *Compliance with the site plan and elevations as submitted, except as modified by the conditions listed below.*
 2. *Compliance with all requirements of the Development Services Division with regard to the issuance of building permits.*
 3. *A completed Sign Agreement, including certificate of insurance, shall be submitted to the Development Services Department prior to installation of the monument sign.*
 4. *Compliance with all requirements of the Sign Ordinance regarding standards for maximum height, area and number of signs allowed.*

FINDINGS:

1. The proposed variance is being requested to allow an 8' high monument sign within the future 65' right-of-way line along South Stapley Drive. Code requirements state that monument signs must be placed outside the future right-of-way line.
2. The reason cited by the applicant that the sign is not proposed outside of the 65' future right-of-way line is due to existing site development and building placement. Sign placement per code requirements would set the sign back from the improved right-of-way an additional 20', which would be right up to the front of the building, which is located approximately 28' back. Planning staff has verified with the Engineering Department that Stapley Drive is not identified in the CIP Plan to be widened in the next 5 years. However, the applicant understands the need to execute a sign agreement for location of the sign within the future right-of-way so that in any event the sign requires relocation at any point in the future, it will be done at the owner's expense.
3. Their current sign is located within the future width line, but is located near the corner, which is not close enough to the primary entrance for southbound traffic to easily locate the property.
4. As approved, the 8' monument sign located within the future 65' right-of-way line requires the granting of a variance. The Board of Adjustment must find the following items are present to approve a variance:
 - a) *There are special conditions that apply to the land or building.*
 - b) *The special condition was pre-existing and not created by the property owner.*
 - c) *That strict compliance with the Code would deprive the property of privileges enjoyed by other properties in the same zoning district.*
 - d) *The variance would not constitute a special privilege unavailable to other properties in the vicinity and zoning district of the subject property.*

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5. St. Luke Lutheran Church was originally constructed in 1961 and pre-dates future right-of-way requirements. There is another church property to the north, as well as existing offices to the north, which both have existing signage at the 45' right-of-way line. The condition is also pre-existing and not created by the property owner since the church was legally constructed 53 years ago under a prior zoning ordinance.
6. Strict compliance with code would deny the church of signage in a location near the existing right-of-way line that is currently enjoyed by the adjacent church and office project. These other businesses currently enjoy the visibility of their signage within the future right-of-way and the granting of a variance to St. Luke Lutheran Church for the approved monument sign location would not constitute a special privilege.

Vote: Vote (6-0) (Absent – Boardmember Cluff)

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Case No.: BA14-031

Location: 1542 East Dana Avenue

Subject: Requesting: 1) a Special Use Permit and 2) a Substantial Conformance Improvement Permit (SCIP); both to allow the redevelopment of an existing residence as a Residential Group Home to be occupied by more than 10 people; all in the RM-2 zoning district. (PLN2014-00165)

Decision: Withdrawn

Summary: This item was on the consent agenda and was not discussed on an individual basis

Motion: It was moved by Boardmember Allen seconded by Boardmember Swanson to withdraw case BA14-031

Vote: Vote (6-0) (Absent – Boardmember Cluff)

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- Case No.:** BA14-032
- Location:** 1918 East McKellips Road
- Subject:** Requesting a Special Use Permit to modify an existing Comprehensive Sign Plan in the LC zoning district. (PLN2014-00179)
- Decision:** Approval with conditions
- Summary:** This item was on the consent agenda and was not discussed on an individual basis
- Motion:** It was moved by Boardmember Allen seconded by Boardmember Swanson to approve case BA14-032 with the following conditions:
1. *Compliance with sign plan submitted, except as modified by these conditions.*
 2. *Individual letters shall not be mounted on a raceway and shall be mounted directly to the building. The use of a raceway to mount individual letters is prohibited within the sign ordinance, and is not part of the approval of this comprehensive sign plan.*
 3. *Relocate two-of the Wall Arches (logos) adjacent the "McDonald's" text in order to consider the square footage as one sign each. The third Wall Arch can be located as shown on the north side of the building as the allowed third attached sign.*
 4. *Relocate the "Welcome" signs as window signage in the entry.*
 5. *Relocate the "Drive-thru" and "Order-here" text from the ordering canopy to the front of the single arm gate.*
 6. *Compliance with all requirements of Development Services in the issuance of sign permits.*

FINDINGS:

1. The building has more than 100' of frontage parallel to McKellips Road and is allowed 3 attached signs with a maximum aggregate sign area of 160' per code and the existing CSP.
2. The applicant is requesting a CSP to allow 10 attached signs (3-logo signs, 2-text "McDonald's" signs, 2-"Welcome" signs", 2-"Pay Here signs, and 1-"Pick-up Here" sign).
3. The aggregate square footage of the attached sign area meets code requirements at 121.34 sf.
4. By moving two of the logo signs adjacent to the identifier signs they would be considered one sign that would allow the number and square footage of the attached signage to meet code.
5. The "Welcome" and "Pick-up" and "Pay-here" signs can meet code by being redesigned as window signs. Staff is recommending the redesign of these signs as window signage.
6. The use of the yellow fiber glass arch and lit yellow canopy facia have been reviewed by the Design Review Board and have been considered design features that have been integrated into the architecture of the building.
7. The text over the "Order Here Canopy" and the "Single-Arm Gateway" is considered detached signage and is not permitted by the code. Staff is recommending the removal of the text.
8. The existing CSP standards for detached signage along McKellips and Gilbert Roads are not revised by this request and meet the requirements of the Sign Ordinance.

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9. The existing CSP standards for attached signage on the major tenant space are not revised by this request and are more than allowed by the Sign Ordinance.
10. The CSP uses unmodified Sign Ordinance standards for the remaining tenant spaces and pad sites within the center.
11. The approved modification to the CSP will meet the intent of the originally approved CSP and the sign ordinance with the recommended conditions of approval. The proposed signage amounts will be compatible with the existing development as well as surrounding properties, and will not be detrimental to adjacent development.

Vote: Vote (6-0) (Absent – Boardmember Cluff)

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Case No.: BA14-033

Location: 6742 E. Main Street

Subject: Requesting a Substantial Conformance Improvement Permit (SCIP) to allow the redevelopment of a drive-through restaurant site within the LC zoning district. (PLN2014-00175)

Decision: Approval with conditions

Summary: This item was on the consent agenda and was not discussed on an individual basis

Motion: It was moved by Boardmember Allen seconded by Boardmember Swanson to approve case BA14-033 with the following conditions:

1. *Compliance with the site plan and elevations submitted, except as modified by the conditions below.*
2. *Comply with all landscape requirements of Chapter 33 including full counts of shrubs and trees.*
3. *Foundation Base at Future Building: provide full foundation base width and planting.*
4. *Compliance with all requirements of Design Review approval (DR14-014).*
5. *Compliance with all requirements of Development Services in the issuance of building permits.*

FINDINGS:

1. This request will allow for the construction of a 2,083 square-foot drive-through restaurant and a future 4,000 square-foot commercial building on a developed site within the LC zoning district.
2. The existing development encroaches into required setbacks to a greater extent than the proposed improvements. Currently (4) driveways access the site from N. Sunaire and E. Main Street. (2) of these will be deleted, and a new driveway will be added from E. Avalon.
3. Full compliance with current Code development standards would require significant demolition of existing improvements, possibly precluding the continued use of this site for this lawful, permitted use.
4. The approved improvements will result in a development that is compatible with, and not detrimental to, adjacent properties or neighborhoods.

Vote: Vote (5-0-1) (Absent – Boardmember Cluff) (Boardmember Hitchens-Abstained)

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Case No.: BA14-034

Location: 5735 East McDowell Road #430

Subject: Requesting a variance to allow a carport to encroach into the required side yard in the RM-2 PAD zoning district. (PLN2014-00182)

Decision: Approval with conditions

Summary: The applicant Barbara Oberhoffer of 5735 E. McDowell #430, presented the case to the Board. Ms. Oberhoffer explained that her mother-in-law cannot take care of herself any longer so she is going to move in to her property at 5735 E. McDowell so she can be closer to Barbara and her husband for personal care. Expanding the car port, and removing the existing post is necessary so Ms. Oberhoffer's mother-in-law can enter and exit her vehicle without obstruction. Barbara's husband, Jim Oberhoffer explained to the Board that many homes in the park already have double carports, and he would simply like to bring his property up to par with some of the other neighbors.

Ms. Oberhoffer confirmed for Boardmember Allen that her mother-in-law would be moving into the property within the next 4 months if everything went as planned.

The Oberhoffers explained to the Board that the Architecture Committee at the Wells is not supportive because of the proposed canopies encroachment into the setback and potential obstruction to emergency vehicles. Mr. Oberhoffer explained that the awning would be built on top of a 5 to 6 foot raised cement pad, so he feels that an additional structure would not restrict the flow of traffic or impede emergency vehicles.

Ms. Oberhoffer explained to Boardmember Freeman that it is to the best of her knowledge that if the Board would be supportive of a variance, then the HOA and Architectural Committee at The Wells would be agreeable to allowing the awning.

Robert Tomasik of 5735 E. McDowell #41, and also the President of the Homeowners Association, presented to the Board and explained that the Oberhoffers submitted an application to the Wells Architectural Committee on January 22nd and then were denied February 6th because proper setbacks were not met. He went on to explain that the Oberhoffers were given 10 days to appeal but chose not to do so. On March 25th the Architectural Committee received a letter from the Oberhoffers instructing them to contact the City, which the Committee did not do because they were not interested in appealing something that had already been denied by the Architectural Board. Mr. Tomasik explained that he wants the variance to be denied because he is concerned about restricted sight lines around a tight turn, potentially impeding emergency vehicles, and that many homes within The Wells function with just one covered parking spot. He went on to say that even if the Board approves a variance, the Wells Architectural Review Board would not reconsider it's position.

Richard Delaney of 5735 E. McDowell, unit #481 spoke in opposition of the variance. Mr.

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Delaney explained that he lives across the street from unit #430 and that he is concerned about the blind corner and the near accidents and accidents that he has witnessed.

The applicant, Mrs. Oberhoffer, explained to Mr. Delaney that since her mother-in-law is a paraplegic and uses a wheelchair, it is important that a variance is granted for a carport so she doesn't have to load and unload on the street. With an expanded carport, she would be able to stay off of the road and eliminate a dangerous situation for herself, her caretaker, and her neighbors.

Mrs. Oberhoffer addressed Mr. Tomasik and informed him that she was never told about the 10 day appeal process, finding out only after she called the Wells Architectural Board. She explained that she had to submit for a second time, and was given a non-specific reason for rejection. The second appeal packet was not returned, nor was she contacted.

Jim Oberhoffer reaffirmed that he was only asking for a 2'-3' encroachment and was only doing it to accommodate a handicapped family member. He clarified for Boardmember Allen that he and his wife own the property, but his mother would be the one residing there, hopefully within a four month period, pending completion of the necessary improvements. Mr. Oberhoffer also explained that the sight line at the corner would not be any more obstructed than it is now, because of the existing concrete slab on the corner of the property that functions as a parking spot for a vehicle.

Mr. Oberhoffer confirmed for Boardmember Hitchens that the concrete slab would not be expanded, only an overhang would be constructed on the existing concrete. Mr. Oberhoffer also confirmed that the new addition would not protrude into the front of the house.

The Board called Mr. Delaney back to the podium to confirm that the concrete podium was on a berm on the corner that measured roughly 3 to 4 feet in height.

Zoning Administrator Sheffield informed the Board of Ordinance 11-32-3 regulating covered parking spaces, confirming that restrictions do not apply in RV parks. He told them that 9x18 feet was normal, and an RV is required to park only 1 car per unit. He went on to inform the Board that the Ordinance addresses the need for space assuming the person doesn't have a handicap. He confirmed for the Board that the ADA speaks of accessibility and it creates unique conditions to make property accessible to the handicapped. Mr. Sheffield confirmed that the ADA does not require cities to grant variances to make properties ADA accessible but it gives discretionary recognition to the City to grant a justification.

Boardmember Hitchens confirmed that the encroachment was a 4 foot encroachment into a five foot PUE and that the ADA usually determines parking spots at 11'x6' or 10'x5' and confirmed that the support pole in the middle of the roof would be removed and the two parking spots would measure roughly 18'x18'.

Boardmember Swanson proposed going to 16 foot wide instead of the 19 foot, the 16 foot

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being roughly guided by ADA standards. Mr. Swanson proposed a variance of 1 foot, effectually granting a carport addition of 6 feet, instead of the 9 foot addition.

Motion: It was moved by Boardmember Swanson seconded by Boardmember Freeman to approve case BA14-034 with the following conditions:

1. *Compliance with the site plan, narrative and exhibits submitted.*
2. *The carport addition shall not encroach into the 5' P.U.E.*
3. *The applicant must obtain approval from the Architectural Review Committee at The Wells for the carport addition.*
4. *Compliance with all requirements of the Development Services Division in the issuance of building permits.*
5. *The applicant may not come closer to the property line than the front and rear alignment of the existing carport.*

FINDINGS:

1. The variance is being requested to allow the applicant to encroach 4' into the required 9' side yard in order to accommodate a handicap accessible van. Currently, the property has a 10' carport that is too small to allow for comfortable maneuverability of a person and a wheelchair without being exposed to the elements.
2. The location of the new carport will be set flush with the existing carport that is located approximately 6' from the front property line.
3. The applicant's justification to retrofit the home to accommodate Americans with Disabilities Act (ADA) standards is adequate justification for the variance request. Strict compliance of code would deprive the occupant of comfortable maneuverability in and out of a vehicle which is a requirement of ADA.
4. The applicant has noted the following as justification: 1) the lot is a corner lot; 2) the street configuration is a special condition that was pre-existing; 3) strict compliance would deprive a handicapped individual the ability to access a wheelchair out of the vehicle; 4) there are many other homes that enjoy a two-car carports so they would not be granted any special privilege.
5. It is important to note that Z90-002, which modified the PAD standards to their current state, allows a maximum building coverage of 60 percent and maximum lot coverage of 75 percent for concrete/paving. Without a properly dimensioned site plan, staff can't accurately gauge the current lot coverage, but it appears it will be over both of the allowable lot coverage for built structures and paving. Due to the justification of the variance request to meet ADA standards, the increased lot coverage is also supported.
6. Currently the home does not meet current code requirements for two covered parking spaces per dwelling unit. Approval of this variance will bring the site further into compliance with current code.

Vote: Vote (6-0) (Absent – Boardmember Cluff)

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Case No.: BA14-035

Location: 1210 East Southern Avenue

Subject: Requesting a Development Incentive Permit (DIP) to allow the development of a drive-through restaurant in the LC zoning district. (PLN2014-00187)

Decision: Approval with conditions

Summary: This item was on the consent agenda and was not discussed on an individual basis

Motion: It was moved by Boardmember Allen seconded by Boardmember Swanson to approve case BA14-035 with the following conditions:

1. *Compliance with the site plan, landscape plan, and narrative submitted, except as modified by the conditions listed below.*
2. *Compliance with Design Review case# DR14-015.*
3. *Property owner to provide a recorded access agreement to the parcel to the north.*
4. *Provide landscape material quantities consistent with full Code requirements within the perimeter setbacks, foundation base, parking areas, and the right-of-way.*
5. *Provide a screen wall adjacent to Southern Avenue to screen parking areas from the street.*
6. *Provide densely planted landscape material adjacent to Stapley Drive to screen parking areas from the street.*
7. *Compliance with all requirements of the Development Services Division with regard to the issuance of building permits.*

FINDINGS:

1. The applicant is proposing the redevelopment of this vacant site with a new 2,894-sqft. drive-thru restaurant.
2. The site is 0.94-acres in area. The proposed development needs deviations approved from current development standards as unusual right-of-way needs provides further challenges for the site as it reduces the amount of land area available for redevelopment.
3. The applicant has provided sufficient evidence that compliance with current Code requirements would not be possible without reduction of the building footprint or elimination of the drive-thru, both of which will not work for the proposed business.
4. The approved development plan is consistent with the General Plan and the drive-thru restaurant use is a permitted land use in the LC district.
5. The approved site and landscape plans, including staff recommended conditions of approval, do not allow development that is more intense than the surrounding neighborhood; and is commensurate with existing development within a 1,200-foot radius of the by-passed property.
6. The architectural elements, construction and landscape materials, and other site improvements of the approved development plan meet the intent of the Design Standards of the Zoning Ordinance.

Vote: Vote (6-0) (Absent – Boardmember Cluff)

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OTHER BUSINESS:

ITEMS FROM CITIZENS PRESENT

None

Respectfully submitted,

Gordon Sheffield, AICP CNU-a
Zoning Administrator